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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
09/879,320	06/12/2001	Ajay Hasmukhlal Upadhyay	RD 01022	5176
7590 08/23/2006			EXAMINER	
KEVIN E. MC VEIGH			CHANNAVAJJALA, LAKSHMI SARADA	
RHODIA INC. CN 7500 8 CEDAR BROOK DRIVE			ART UNIT	PAPER NUMBER
CRANBURY,	NJ 08512		1615	
			DATE MAILED: 08/23/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)					
	09/879,320	UPADHYAY, AJAY HASMUKHLAL					
Office Action Summary	Examiner	Art Unit					
	Lakshmi S. Channavajjala	1615					
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address					
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 16(a). In no event, however, may a reply be tim rill apply and will expire SIX (6) MONTHS from to cause the application to become ABANDONED	l. ely filed the mailing date of this communication. O (35 U.S.C. § 133).					
Status							
1)⊠ Responsive to communication(s) filed on 13 Ju	ne 2006.						
	action is non-final.						
3) Since this application is in condition for allowar	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is						
closed in accordance with the practice under E	x parte Quayle, 1935 C.D. 11, 45	3 O.G. 213.					
Disposition of Claims							
4)⊠ Claim(s) <u>1-8 and 31-36</u> is/are pending in the application.							
4a) Of the above claim(s) is/are withdrawn from consideration.							
5) Claim(s) is/are allowed.							
6)⊠ Claim(s) <u>1-8 and 31-36</u> is/are rejected.							
7) Claim(s) is/are objected to.	7) Claim(s) is/are objected to.						
8) Claim(s) are subject to restriction and/or	election requirement.						
Application Papers							
9) The specification is objected to by the Examine	r.						
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.							
Applicant may not request that any objection to the	drawing(s) be held in abeyance. See	37 CFR 1.85(a).					
Replacement drawing sheet(s) including the correct	on is required if the drawing(s) is obj	ected to. See 37 CFR 1.121(d).					
11)☐ The oath or declaration is objected to by the Ex	aminer. Note the attached Office	Action or form PTO-152.					
Priority under 35 U.S.C. § 119							
12) ☐ Acknowledgment is made of a claim for foreigna) ☐ All b) ☐ Some * c) ☐ None of:	priority under 35 U.S.C. § 119(a)	-(d) or (f).					
1. Certified copies of the priority documents have been received.							
2. Certified copies of the priority documents							
3. Copies of the certified copies of the prior		d in this National Stage					
application from the International Bureau	• • • • • • • • • • • • • • • • • • • •	a					
* See the attached detailed Office action for a list	or the certified copies not receive	u.					
Attachment(s)	_						
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	4) Interview Summary Paper No(s)/Mail Da						
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date		atent Application (PTO-152)					

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DETAILED ACTION

Receipt of Appeal Brief dated 6-13-06 is acknowledged.

Claims 1-8 and 31-036 have been pending.

Upon reconsideration the finality of the rejection of the last Office is withdrawn and the following rejection has been applied:

Claim Rejections - 35 USC § 103

Claims 1-8 and 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,372,252 to Blume et al (Blume) in view of US 5,032,406 to Dansereau et al (Dansereau).

Blume teaches immediate and sustained release formulations comprising guaifenesin. Blume teaches loading guaifenesin and methocel into a high shear mixer, mixed at high speed, adding water and further mixing at additional time to complete granulation. The composition is next dried in fluid dryer and then passed through a mill fitted a suitable size screen (col. 7, lines 63 through col. 8, lines 23). Thus, the resulting material of Blume reads on agglomerated mixture because the processing of the material involves the same steps as described in the instant application.

Blume fails to teach granulation of guaifenesin with polyvinylpyrrolidone.

Dansereau teaches a tablet composition that provides dual action, for immediate and sustained release, comprising an outer tablet and an inner tablet respectively. The active ingredient of both inner and outer tablets comprises guaifenesin. The inner tablet

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particularly comprises guaifenesin and polyvinylpyrrolidone (PVP) (example I).

Dansereau teaches that the inner tablet is made as follows (col. 6):

50 The inner tablet is made by oscillating guaifenesin and half of the polyvinylpyrrolidone through a 30 mesh screen. The blend is then transferred to a pharmaceutical grade blender and mixed until it is of uniform consis-55 tency. It is then granulated with polyvinylpyrrolidone that had been previously dissolved in a sufficient amount of purified water to make a solution of from about 8% to about 12% of polyvinylpyrrolidone. This mixture is discharged and dried in a forced air oven at 60 40° C. until the water content is less than 1%. The dried granulation is then oscillated through a 12 mesh screen and returned to the blender. The remaining polyvinylpyrrolidone, microcrystalline cellulose and talc are added to this dried granulation and mixed until it is of 65 uniform consistency. Finally, zinc stearate is added and the mixture is mixed until it is of uniform consistency. This mixture is then compressed into inner tablets using a standard tableting press.

Thus, the resulting inner tablet composition of Dansereau read on the claimed agglomerate mixture because the process involves the same steps as described in the instant specification (page 3, lines 15-20).

It would have been obvious for one of an ordinary skill in the art at the time of the instant invention to employ PVP or methocel for the processing and preparation of compressible guaifenesin tablets because Dansereau recognizes methylcellulose (Blume) and PVP as both binders as well as disintegrants and the prior art references (Blume and Dansereau) recognize both the excipients as suitable for preparing a sustained release compressible tablet preparation comprising guaifenesin.

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For the claimed additives such as glidants, lubricants, silica, stearic acid etc., Blume and Dansereau teach the conventional excipients including lubricants such as magnesium stearate, calcium stearate etc; binders such as povidone (polyvinylpyrrolidone), gelatin, starch; glidants such as talc or silicon dioxide, stabilizers and other excipients such as lactose, sorbitol etc. Accordingly, in the absence of evidence to the criticality of the specific excipients and their amounts (claims 3-4 & 33-34), it would have been obvious for one of an ordinary skill in the art at the time of the instant invention was made to the choose the appropriate excipient and optimize the amounts of the same in the composition of Blume with an expectation to achieve the desired effect.

With respect to the claimed particle sizes, Blume teaches that no more than 30% granulation material passes through 100 mesh (150 microns) and not more than 10% retained on 10-mesh screen (greater than 850 microns). Thus, majority of the particles of Blume are in the range of 150 microns – 2 mm and a smaller percentage of particles are below 150 microns. A maximum of 30% of the particles that pass through the 100-mesh screen, according to Blume, could be any size below 150 microns (as low as 45 microns claimed in the instant invention). While Blume does not teach the exact percentages of particle sizes claimed in the instant application, in the absence of any unexpected results obtained with the claimed particle sizes and in particular, the percentages of particles, optimizing the sizes of the particles and the percentages of the particles of an agglomerated mixture of guaifenesin and methocel would have been obvious for one of an ordinary skill in the art at the time of the instant invention was

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made because Blume suggests a sustained release of the guaifenesin with the above process of preparation.

Response to Arguments

Applicant's arguments with respect to claims 1-8 and 31-36 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S. Channavajjala whose telephone number is 571-272-0591. The examiner can normally be reached on 9.00 AM -6.30 PM

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lakshmi S Channavajjala

Examiner Art Unit 1615

August 18, 2006

MICHAEL P. WOODWARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600